

Report Regarding Emailed Chief Counsel Advice

Office of Chief Counsel Internal Revenue Service

March 31, 2010

Emails containing legal advice that lawyers in the Office of Chief Counsel send to Office of Chief Counsel or IRS field personnel are Chief Counsel Advice subject to public inspection as set forth in 26 U.S.C. § 6110.

In paragraph 13 of the Stipulated Order of Final Judgment in *Tax Analysts v. IRS*, the Service agreed to issue an annual report on March 31st following the close of each calendar year concerning the number of emailed CCA processed. *Tax Analysts v. IRS*, 2009 WL 1090045, 103 A.F.T.R.2d ¶ 2009-1496 (D.D.C. 2009). This report, which covers the time period, July 1, 2008 through December 31, 2009, is the first annual report.

- The number of emailed CCA sent during the reporting period is 10,051.
- The number of emailed CCA excluded from public inspection is 1,274. These were excluded because the email concerned one of the following: (1) a criminal investigation; (2) a jeopardy or termination assessment; (3) a civil fraud investigation; (4) any matter referred to in subparagraph (C) or (D) of 26 U.S.C. § 6103(b)(2) (advanced pricing agreements, prefilling agreements, or any other closing agreements as defined by 26 U.S.C. § 7121); or (5) any matter to which 26 U.S.C. § 6105 applies (tax convention information).
- The number of emailed CCA withheld in their entirety as privileged based on one or more of the FOIA exemptions is 7,925. The principal reasons for withholding email CCA as privileged were the work product doctrine and the attorney-client privilege.
- The number of emailed CCA subject to public inspection is 852.¹
- No emailed CCA are being withheld because the taxpayer to whom the email relates could not be identified or notified of the intention to disclose, as required by 26 U.S.C. § 6110(f)(1).

The Service will post each annual report in its electronic Freedom of Information Act reading room, www.irs.gov/foia.

¹ 845 emailed CCA have already been made available for public inspection. Four additional emailed CCA will be released, subject to the taxpayer notification procedures required by 26 U.S.C. § 6110(f). Three other CCA, which were inadvertently omitted from posting to www.irs.gov/foia, will be made available for public inspection in the next weekly release of emailed CCA.